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A bill to be entitled  
 An act relating to relative caregivers; creating pt. XIII  
 of ch. 400, F.S., consisting of s. 400.990, F.S.;  
 providing for the certification of relative caregivers by  
 the Department of Children and Family Services; providing  
 legislative intent and purpose; providing definitions;  
 requiring that training and education programs be provided  
 by the Department of Children and Family Services to  
 relative caregivers; providing minimum criteria for such  
 training; providing for oversight of relative caregivers  
 by the Department of Children and Family Services and  
 support coordinators; establishing minimum qualifications  
 for certification; providing for compensation for services  
 provided by relative caregivers; providing penalties for  
 certain actions by relative caregivers; providing  
 rulemaking authority to the Department of Children and  
 Family Services; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Part XIII of chapter 400, Florida Statutes,  
 consisting of section 400.990, Florida Statutes, is created to  
 read:

PART XIII

RELATIVE CAREGIVERS

400.990 Relative caregivers.--

(1) LEGISLATIVE INTENT; PURPOSE.--

(a) The Legislature intends to encourage the provision of  
 care for disabled children and adults involved in the Medicaid



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30 Waiver Program by a relative caregiver in a family living  
31 arrangement in a private home.

32 (b) The relative caregiver will provide personal care  
33 within the home of the disabled child or adult. The relative  
34 caregiver must live in the disabled child's or adult's home. The  
35 purpose of this part is to provide for the health, safety, and  
36 welfare of residents under the care and supervision of the  
37 relative caregiver.

38 (c) The Legislature recognizes that relative caregivers  
39 are an important part of the continuum of long-term and short-  
40 term care. Support for the personal care available in such homes  
41 provided by this part is intended to assist disabled children  
42 and adults and their families financially while attempting to  
43 delay placement of the disabled child or adult in a nursing home  
44 or other institution. Such care would also allow the nurse who  
45 would otherwise provide personal care for the disabled  
46 individual to be placed elsewhere, thus helping to alleviate the  
47 state's nursing shortage. Regulations governing relative  
48 caregiver homes must be sufficiently flexible to allow residents  
49 to age at home if resources are available to meet their needs  
50 and accommodate their preferences.

51 (d) The Legislature further finds and declares that  
52 certification under this part is a public trust and privilege,  
53 not an entitlement. This principle must guide the finder of fact  
54 or trier of law at any administrative proceeding or circuit  
55 court action initiated by the department to enforce this part.

56 (e) Rules of the department relating to relative  
57 caregivers shall be as minimal and flexible as possible to  
58 ensure the protection of residents while minimizing the



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59 obstacles that could inhibit the certification of a relative  
60 caregiver.

61 (2) DEFINITIONS.--As used in this part:

62 (a) "Department" means the Department of Children and  
63 Family Services.

64 (b) "Relative" means an individual who is the father,  
65 mother, son, daughter, brother, sister, grandfather,  
66 grandmother, great-grandfather, great-grandmother, uncle, aunt,  
67 first cousin, nephew, niece, husband, wife, father-in-law,  
68 mother-in-law, son-in-law, daughter-in-law, brother-in-law,  
69 sister-in-law, stepfather, stepmother, stepson, stepdaughter,  
70 stepbrother, stepsister, half-brother, or half-sister of the  
71 disabled child or adult.

72 (3) TRAINING AND EDUCATION PROGRAMS.--

73 (a) The department must provide training and education  
74 programs for all relative caregivers.

75 (b) Training and education programs must include  
76 information relating to:

- 77 1. State law and rules governing relative caregivers.
- 78 2. Identifying and meeting the special needs of disabled  
79 children and adults.
- 80 3. Monitoring the health of residents.

81 (c) Relative caregivers must complete the training and  
82 education program within a reasonable time determined by the  
83 department. Failure to complete the training and education  
84 program within the time set by the department is a violation of  
85 this part and subjects the relative caregiver to revocation of  
86 his or her certification.

87 (d) If the support coordinator or the department  
88 determines that there are problems in a home in which there is a



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89 relative caregiver which could be reduced through specific  
90 training or education beyond that required under this section,  
91 the department may require the relative caregiver to complete  
92 such training or education.

93 (e) The department shall specify by rule training and  
94 education programs, training requirements, and the assignment of  
95 training responsibilities for the relative caregiver.

96 (4) OVERSIGHT; FRAUD PREVENTION.-- In order to ensure that  
97 the Medicaid waiver beneficiary in the care of the relative  
98 caregiver is receiving adequate care, the support coordinator  
99 shall make visits to the home in which the disabled child or  
100 adult under the care of the relative caregiver resides. The  
101 frequency of such visits shall be left to the discretion of the  
102 support coordinator and the department.

103 (5) CERTIFICATION PROGRAM.--The department shall provide  
104 by rule for the certification of relative caregivers. At a  
105 minimum, such rule shall require that as a condition of  
106 certification, an applicant for certification as a relative  
107 caregiver shall establish, to the satisfaction of the  
108 department, that:

109 (a) The applicant has the time and commitment to provide  
110 the services required.

111 (b) The applicant has a relative in need of the services  
112 of a caregiver and the relative is willing to receive such  
113 services from the applicant.

114 (c) The applicant has the skills necessary to provide such  
115 services or has agreed to complete the training necessary to  
116 obtain such skills.



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117 (d) The applicant has not been convicted of or been  
118 subject to a sentence for a crime involving moral turpitude  
119 during the preceding 10 years.

120 (e) The applicant has not been convicted of a crime as  
121 provided in s. 775.084(b)1., a similar crime in any other  
122 jurisdiction, or a crime involving abuse of children, the  
123 elderly, or the disabled.

124 (6) COMPENSATION.--The department shall establish by rule  
125 a schedule for compensation for services delivered by a relative  
126 caregiver. In no instance shall the compensation authorized by  
127 this section exceed compensation that would be paid to others  
128 who are registered, licensed, or certified by the department or  
129 other state agencies to provide similar care.

130 (7) VIOLATIONS; PENALTIES.--In addition to any other  
131 liability or penalty provided by law, the department may impose  
132 a civil penalty on a relative caregiver according to the  
133 following classifications:

134 (a) For a first violation in which the department  
135 determines the care by the relative caregiver directly threatens  
136 the physical or emotional health, safety, or security of the  
137 residents or establishes the possibility that death or serious  
138 physical or emotional harm could result therefrom, the condition  
139 or practice that constitutes such a violation must be abated or  
140 eliminated within 24 hours, unless the department determines  
141 that a fixed period is required for correction, and the relative  
142 caregiver shall be subject to mandatory additional training and  
143 education as determined by the department.

144 (b) For a second violation in which the department  
145 determines the care by the relative caregiver directly threatens  
146 the physical or emotional health, safety, or security of the



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147 residents or establishes the possibility that death or serious  
148 physical or emotional harm could result therefrom, the relative  
149 caregiver is subject to a suspension of certification for a  
150 period of 6 months and mandatory additional training and  
151 education as determined by the department.

152 (c) For a third violation in which the department  
153 determines the care by the relative caregiver directly threatens  
154 the physical or emotional health, safety, or security of the  
155 residents or establishes the possibility that death or serious  
156 physical or emotional harm could result therefrom, the relative  
157 caregiver's certification will be permanently revoked by the  
158 department.

159 (8) RULES.--The department shall adopt rules as needed to  
160 implement this section.

161 Section 2. This act shall take effect upon becoming a law.